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November 2, 2022

VIA ECF

The Honorable Sanket J. Bulsara
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: Elliott v. Donegan, No. 18-cv-5680-LDH-SJB (E.D.N.Y.)

Dear Judge Bulsara:

On behalf of Defendant Moira Donegan, we submit this letter in accordance with Your Honor's Individual Practices Rule II.A to respectfully request an extension of the overall case schedule to accommodate the forthcoming second mediation conference. We have conferred with counsel for Plaintiff Stephen Elliott, who joins in this request.

Given the forthcoming settlement conference on November 29, 2022, the parties respectfully request an extension of all case deadlines in order to allow the parties to focus on settlement efforts and avoid the unnecessary time and expense of engaging in discovery. Presently, the deadline for substantial completion of all document discovery is November 4, 2022, and the deadline to serve final written discovery requests is December 7, 2022.¹ (Sept. 9, 2022, Docket Entry; Apr. 16, 2022, Docket Entry.) Accordingly, to account for the Christmas and New Year's holidays, the parties respectfully request that the deadline for substantial completion of all document discovery be adjourned to five weeks following the date of the mediation conference, and that all other deadlines be similarly extended so as to maintain the same amount of time.²

Under this proposal, the new deadlines would be as follows:

- January 3, 2023 - substantial completion of all document discovery;

¹ The other existing deadlines are as follows: completion of all fact discovery by January 6, 2023; expert reports by February 3, 2023; rebuttal expert reports by March 17, 2023; completion of all discovery by April 14, 2023; and a status conference on November 10, 2023. (Sept. 9, 2022, Docket Entry; Apr. 16, 2022, Docket Entry.)

² Given the recent lengthy article published about this case in New York Magazine, it now appears likely that discovery will involve a significant amount of third-party requests, including subpoenas to many if not most of the individuals mentioned in the article. See Lila Shapiro, *Stephen Elliott and the 'Shitty Media Men' List Go to Court*, N.Y. Magazine (Oct. 25, 2022), <https://nymag.com/intelligencer/article/shitty-media-men-lawsuit-moira-donegan-stephen-elliott.html>.

- February 5, 2023 - serve final written discovery requests;
- March 7, 2023 - completion of all fact discovery;
- April 4, 2023 - expert reports;
- May 16, 2023 - rebuttal expert reports;
- June 13, 2023 - completion of all discovery; and
- January 9, 2024 (or another date convenient for the Court) - status conference.

Finally, we note that Ms. Donegan intends to seek leave to file an Amended Answer to assert a counterclaim under New York's Anti-SLAPP statute, N.Y. Civ. Rights Law § 76-a, in accordance with Rule III.A.1 of Judge DeArcy Hall's Individual Practices. Although Ms. Donegan has already asserted an affirmative defense under this new statute, there is some ambiguity in the case law as to whether recovery of attorneys' fees against the losing party requires a counterclaim. *See, e.g., Lindell v. Mail Media Inc.*, 575 F. Supp. 3d 479, 489 (S.D.N.Y. 2021). We have conferred with counsel for Plaintiff, who does not consent to the filing of the Amended Answer.

Respectfully submitted,



Gabrielle E. Tenzer